

REMARKS

The present communication is responsive to the Office Action mailed November 19, 2008. Applicants submit herewith a one-month extension of time extending the period of reply from February 19, 2009 up to and including March 19, 2009.

Claims 1-21 were pending in the present application. Claims 1, 14, 15, and 16 have been amended herein. No claims have been added and claim 13 has been canceled. Therefore, claims 1-12 and 14-21 are pending in present application. No new matter has been added. Applicants set forth remarks relating to the Action below.

In the second paragraph of the Action, the Examiner noted that Applicants' claim for the benefit of a prior filed application is acknowledged, but the Applicants have not complied with one or more conditions for receiving the benefit of an earlier filing date. Applicants have filed a Petition to Correct Priority herewith along with a Request for Corrected Filing Receipt and an "Initial" Application Data Sheet. Further, the Cross-Reference to Related Applications paragraph of the specification has been revised to correct the priority information. Specifically, the present application is a continuation of the '182 patent (and not a continuation-in-part). No new matter is included in these amendments. Applicants respectfully submit that the priority rejection outlined in the Action should be withdrawn.

Further in the Action, the Examiner rejected claims 1-21 under 35 U.S.C. 102(e) as being anticipated by both U.S. Pat. Pub. No. 2004/0158325 to *Errico et al.*, now U.S. Pat. No. 7,223,291 ("the '291 patent") and U.S. Pat. Pub. No. 2004/0148027 to *Errico* ("the '027 application"), claims 1, 4, 5, 10, 15, 16 under 35 U.S.C. 102(a) as being anticipated by PCT Appln. WO 02/71986 to *Grunberg et al.* ("Grunberg"), claim 3 is

rejected under 35 U.S.C. 103(a) as being unpatentable over Grunberg in view of U.S. Pat. No. 5,370,697 to *Baumgartner* ("Baumgartner"), claims 6-8 under 35 U.S.C. 103(a) as being unpatentable over Grunberg in view of U.S. Pat. No. 4,566,466 to *Ripple et al.* ("Ripple").

With respect to the rejection of claims 1-21 in view of the '291 patent and the '027 application, Applicants respectfully assert that each of these references do not qualify as prior art under 35 U.S.C. § 102(e). Both references and the present application have the same three inventors, namely, Joseph P. Errico, Michael W. Dudasik, and Rafail Zubok. Further, the present application correctly claims priority to the '182 patent filed on October 29, 2002 (which the present application is a continuation application of). The '291 patent and the '027 application were both filed on September 16, 2003 and have a priority date of October 29, 2002, the same date as the priority date of the present application. Because the '291 patent and the '027 application are not prior art to the present application, Applicants respectfully submit that the current 102(e) rejection of claims 1-21 is improper and should be withdrawn.

With respect to the rejection of the claims in view of Grunberg, Applicants respectfully submit amended claim 1 is not anticipated by Grunberg because the cited reference does not disclose or suggest among other limitations, "a bifurcated trial having a first trial half of the bifurcated trial coupled by a first pin to a first of the extensions and having a second trial half of the bifurcated trial coupled to a second of the extensions." Therefore, Grunberg cannot be used to anticipate amended claim 1. Claims 2-12 and 14-20 are unanticipated, *inter alia*, by virtue of their dependence from claim 1. With respect to the rejections of claims 3 and 6-8, Grunberg cannot be used

to support a *prima facie* case of obviousness for the reasons outlined above. Therefore, all of the rejections of the pending claims, namely, claims 1-12 and 14-21 are overcome and Applicants respectfully assert that the claims are in condition for allowance.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: March 19, 2009

Respectfully submitted,

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